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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/805,180

03/20/2004

Uwe Wagner

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7409

20676 7590 04/23/2007  
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EXAMINER

CHARLES, MARCUS

ART UNIT

PAPER NUMBER

3682

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/23/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/805,180

Applicant(s)

WAGNER ET AL.

Examiner

Marcus Charles

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This is the first action relating to serial application number 10/805,180 filed 03-20-2004.

Claims 1-7 are currently pending.

#### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Drawings***

2. Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the intended scope of the claim is unclear and confusing because it is not clear as to how the pressure members can have a

Art Unit: 3682

distance between them because they are always in contact with each other. In addition, it is not clear as to how the distance can be partially compensated since they are always in contact. It is not clear as to what is meant by freedom surfaces (please explain).

In claim 2, it is not clear as to how the influence on the length of the pressure members are at least compensated. In addition, it is not clear if applicant is claiming a polygon effect and it is not clear as to whether the polygon effect is part of the claim. Furthermore, it is not clear as to how the length of the pressure members have on the length of the chain because the length of the pressure members are perpendicular to the length of the chain.

Claim 3 is rejected for the same reasons as claims 1-3 regarding the width of the chain.

In claim 4, it is not clear as to what is being referred to as O, Po and P. It is not proper to include only the drawing references as a limitation of the claim.

In claim 6, the term type renders the scope of the claim unclear because it is not clear what the term type is intended to convey and what type is being referred to.

In claim 7, it is not clear as to what the line OP represents.

In claim 8, it is not proper to use reference numeral as limitation of the claim. It should read "the line OP".

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3682

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3 and 6, as understood are rejected under 35 U.S.C. 102 (b) as being anticipated by Wolf (5,427,583). Wolf discloses the claimed invention including a pair of rocker members (3) having sliding opposite faces that rolls on one another such that the distances between the disengaging section of the rolling surfaces that rolls on each other during a mutual tilting of the links. In addition, it is apparent that the distance between the rolling surfaces of the pressure members rolling on each other during mutual tilting following one after each other in the longitude direction are at least compensated such the rolling action of the rocker members do not affect or influence the length of the chain so as to cause any chain malfunction.

In claim 3, as understood, are rejected by Wolf as set above, including it is apparent that the differences existing over the width of the plate link chain in the forces transmitted by the rocker pressure member pairs between the links are at least compensated such that they do not affect or influence the operation of the chain.

In claim 6, it is apparent (as seen from fig. 1) that each rocker (3) is thicker in the middle region than at the end region relative to the plate.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Art Unit: 3682

Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4-5, 7 and 8, as understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf: Wolf fails to disclose any mathematical equation or formulae that would determine the distance between the center of curvature of a rolling surface and a point P on the surface of the rolling surface in relation to the angle between the lines about distance is being measured, since it has been held that discovering an optimum value of a result effect variable involves only routine skill in the art. *In re Boesch*, 617 f.2<sup>nd</sup> 272, 205.

#### **Conclusion**


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Morse (1,755,887), Rattunde et al. (4,581,001), Sugimoto et al. (5,026,331), Greiter (6,135,908 & 6,478,704), Linnenbrugger et al. (6,346,058), Turner (6,406,396) and Oberle et al. (US 2005/0209035) disclose a chain link having rocker members.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (571) 272-7101. The examiner can normally be reached on Monday-Thursday 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ridley Richard can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3682

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Marcus Charles  
Primary Examiner  
Art Unit 3682  
April 19, 2006